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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,605	07/09/2001	Kenneth F. Pearce	2001KP246PA	4114

7590 02/24/2006
Kenneth F. Pearce
631 Denmark Drive
Danville, KY 40422-2419

EXAMINER

BOVEJA, NAMRATA

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/900,605	Applicant(s) PEARCE, KENNETH F.	
	Examiner Namrata Boveja	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/01/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to communication filed on 12/23/2005.
2. The Applicant has canceled claims 1-24. Claims 25-49 have been added by the Applicant and are presented for examination.

Objections

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because the newly submitted Figures 1, 3, and 6 all include a hyperlink with an uniform resource locator, URL, in the disclaimer section of the illustration, and it is improper to include a URL in the drawings, since it would be possible for anybody to view the associated website content through the URL prior to patent publication. Furthermore, the Examiner would like to refer the applicant to 37 CFR 1.121(d) especially in regards to proper margins such as in Figure 4 to ensure compliance with size and margin requirements.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. Applicant is given a TWO MONTH time period to submit

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new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a). Failure to timely submit replacement drawing sheets will result in ABANDONMENT of the application.

Claim Rejections - 35 USC § 112

The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

There are two separate requirements set forth in this paragraph:

- (A) the claims must set forth the subject matter that applicants regard as their invention; and
- (B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

4. Claims 26 and 43 are rejected under 35 U.S.C. 112.

Claim 26 teaches displaying electronic messages pursuant to a predetermined logic positioned about said headdress. It is unclear what is meant by displaying electronic messages pursuant to a predetermined logic, since this was not addressed in the specification. Furthermore, it is unclear what is meant by positioned about said headdress, since it is unclear if that means on the top or inside the headdress etc. Clarification is required.

5. Claim 43 teaches the controller positioned about said headdress. It is unclear what is meant by positioned about said headdress, since it is unclear if that means on the top or inside the headdress etc. Clarification is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 26 teaches displaying electronic messages pursuant to a predetermined logic positioned about said headdress. The claim does not enable one skilled in the art to displaying electronic messages pursuant to a predetermined logic positioned about said headdress, since this is not communicated in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 25-49 are rejected under U.S.C. 103(a) as being anticipated by the article by Ralph Ruton titled "What's in a name? Another paid ad" from the Colorado Springs Gazette on July 1, 1989 on page C.1. (hereinafter Ruton) in view of Gershon Patent Number 6,257,984 (hereinafter Gershon) further in view of Official Notice.

In reference to claims 25 and 32, Ruton teaches a method for face-to-face advertising comprising the steps of: a) arranging for payment from an advertiser prior to wearing a headdress (i.e. sponsor's agree to pay athletes including golfers \$100,000 for wearing a visor with a sponsor's name or logo during a game) (page 1 lines 1-3 and

page 2 lines 34-36); b) wearing a headdress for displaying messages in a public place (i.e. pro-golfers wear the visors during games in public with corporate logos) (page 1 lines 1-3 and page 2 lines 34-36); and c) moving said headdress about said public place (i.e. pro-golfers wear the visors during games in public with corporate logos and become walking billboards for advertising) (page 1 lines 1-3 and page 2 lines 34-36).

Routon does not teach displaying electronic messages. Gershon teaches displaying electronic messages (i.e. a video game, images, horoscope, reports, and other information of interest to a user) on a hat (col. 2 lines 6-34 and Figures 3 and 5). It would have been obvious to modify Routon to include displaying electronic messages, because electronic messages can be changed more frequently and can be more colorful and visually appealing to the users.

Routon also does not teach the headdress to includes more than one screen or five planes for displaying said electronic messages. Official Notice is taken that it is old and well known to use multiple screens or planes for viewing different content simultaneously, since one person may be interested in one message and another in a different message that are displayed on different screens. Additionally, users may need to use multiple screens or planes to view an illustration and text simultaneously. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include more than one screen or plane for displaying electronic messages to cater to a wide variety of audience members and to provide two forms of information (i.e. a graphic and text for example) at the same time to the users.

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8. In reference to claim 41, Routon teaches a method for face-to-face advertising comprising the steps of: a) arranging for payment from an advertiser prior to wearing a headdress (i.e. sponsor's agree to pay athletes including golfers \$100,000 for wearing a visor with a sponsor's name or logo during a game) (page 1 lines 1-3 and page 2 lines 34-36); b) wearing a headdress for displaying messages in a public place on a message board (i.e. the area of the headdress where the advertisement is displayed is the board containing the message or a message board) wherein said headdress further comprises a visor or a brim (i.e. pro-golfers wear the visors during games in public with corporate logos) (page 1 lines 1-3 and page 2 lines 34-36); and c) moving said headdress about said public place (i.e. pro-golfers wear the visors during games in public with corporate logos and become walking billboards for advertising) (page 1 lines 1-3 and page 2 lines 34-36).

Routon does not teach displaying electronic messages. Gershon teaches displaying electronic messages (i.e. a video game, images, horoscope, reports, and other information of interest to a user) on a hat (col. 2 lines 6-34 and Figures 3 and 5). It would have been obvious to modify Routon to include displaying electronic messages, because electronic messages can be changed more frequently and can be more colorful and visually appealing to the users.

Routon also does not teach the headdress to include more than one message board for displaying said electronic messages. Official Notice is taken that it is old and well known to use message boards for viewing different content simultaneously, since one person may be interested in one message and another in a different message that

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are displayed on different message boards. Additionally, users may need to use multiple message boards to view an illustration and text simultaneously. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include more than one message board for displaying electronic messages to cater to a wide variety of audience members and to provide two forms of information (i.e. a graphic and text for example) at the same time to the users.

Routon also does not teach the headdress to be cubic shaped. Official Notice is that it is old and well known to use cubic shaped headdresses (i.e. a cubic shaped hat as worn by Dr. Seuss's character in the book "The Cat in the Hat" and by clowns). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to include the use of a cubic shaped headdress, since this type of a hat is taller and more visible in public, it would therefore attract more attention to the advertising message that is being displayed on the hat.

9. **Disclaimer:** Claim 26 was found be deficient under U.S.C. 112. To the extent it was understood, it has been examined.

In reference to claim 26, Routon teaches displaying messages on a headdress (page 1 lines 1-3 and page 2 lines 34-36), but does not teach the displaying electronic messages pursuant to a predetermined logic (i.e. when to show what message and for how long) on the headdress. Loban et al. Patent Number 5,612,741 (hereinafter Loban) teaches displaying said electronic messages pursuant to a predetermined logic (col. 1 lines 42-49, col. 3 lines 3-15, and col. 4 lines 54-65). It would have been obvious to modify Routon to include displaying electronic messages pursuant to a predetermined

logic, because electronic messages can be changed more frequently in real time and can thereby be more colorful and visually appealing to users and more valuable to advertisers, since they can pick the day, the time, and the message to display to enable for a customized advertising solution.

10. In reference to claim 27, Routon teaches attaching a brim or a visor (page 1 lines 1-3 and page 2 lines 34-36) to the said headdress.

10. In reference to claims 28, 29, 35, and 44, Routon does not teach altering one or more of the said electronic messages according to a predetermined paradigm (i.e. model, pattern, example, or assumption). Gershon teaches altering one or more of the said electronic messages according to a predetermined paradigm (i.e. the push button operation by the user leads to changing imagery or content in the video game, in a horoscope, or in news reports, etc.) (col. 2 lines 6-25 and Figure 5). It would have been obvious to modify Routon to include displaying electronic messages according to a predetermined paradigm, because electronic messages can be changed more frequently and can be more colorful and visually appealing to the users. Furthermore, the predetermined paradigm such as what happens when the user presses a specific button when playing a game versus viewing a news report, allows for consistency between different users who may operate the electronic display to view different types of content.

11. In reference to claims 30, 40, and 49, Routon does not teach displaying one or more of said electronic messages for a predetermined time before displaying one or more different messages for a predetermined time. Loban teaches displaying one or

more of said electronic messages for a predetermined time before displaying one or more different messages for a predetermined time (col. 1 lines 45-49, col. 3 lines 12-15, and col. 4 lines 60-65). It would have been obvious to modify Routon to include displaying electronic messages displaying one or more of said electronic messages for a predetermined time before displaying one or more different messages for a predetermined time, because electronic messages can be changed more frequently in real time and can thereby be more colorful and visually appealing to users and more valuable to advertisers, since they can pick the day, the time, and the message to display to enable for a customized advertising solution.

12. In reference to claim 31, Routon teaches incorporating an advertiser's registered trademark (i.e. a sponsor's name or logo) into one or more messages (page 1 lines 1-3 and page 2 lines 34-36). Routon does not teach displaying electronic messages.

Gershon teaches displaying electronic messages (i.e. a video game, images, horoscope, reports, and other information of interest to a user) on a hat (col. 2 lines 6-34 and Figures 3 and 5). It would have been obvious to modify Routon to include displaying electronic messages, because electronic messages can be changed more frequently and can be more colorful and visually appealing to the users.

13. In reference to claims 33 and 42, Routon does not teach ordering (i.e. which one to show, when, and for how long) said electronic messages for public display. Loban teaches ordering said electronic messages for public display (col. 1 lines 31-49 and col. 3 lines 3-15). It would have been obvious to modify Routon to include displaying electronic messages in an ordered fashion, because electronic messages can be

changed more frequently and can be more colorful and visually appealing to the users and can cater to more than one advertiser at a time by displaying multiple ordered messages.

14. In reference to claims 34 and 43, Routon teaches the method wherein said electronic messages are controlled by a controller (i.e. the buttons on the hat that control the display to show video games, horoscopes, news reports, and other information) preprogrammed with advertising messages (col. 2 lines 6-44 and Figure 5), prior to wearing said headdress in said public place (i.e. the buttons can work before and after wearing the hat) (col. 2 lines 6-44 and Figure 5), and wherein said controller is positioned about said headdress (i.e. the controller is located on the hat itself) (col. 2 lines 6-44 and Figure 5).

15. In reference to claims 36 and 45, Routon teaches wearing the headdress in a public place (page 1 lines 1-3 and page 2 lines 34-36). Routon does not teach the method wherein said electronic messages are controlled by a controller receiving one or more signals generated from a location remote from the said headdress. Loban teaches the method wherein said electronic messages are controlled by a controller receiving one or more signals generated from a location remote from the said headdress (col. 1 lines 31-49, col. 2 lines 64 to col. 3 lines 14, and col. 4 lines 54-65). It would have been obvious to modify Routon to control electronic messages by a controller receiving one or more signals generated from a location remote from the said headdress, because this would provide flexibility to advertisers by enabling them to

change content at a moment's notice remotely and conveniently without having to physically go to the message board to make changes.

16. In reference to claims 37, 39, 46, and 48, Routon does not teach the method further comprising the step of altering one or more of said electronic messages according to said one or more signals (i.e. an advertiser wants to show a different advertisement and sends a signal for the display of this new advertisement). Loban teaches the method further comprising the step of altering one or more of said electronic messages according to said one or more signals (col. 1 lines 39-42, col. 2 lines 64-67, and col. 4 lines 54-65). It would have been obvious to modify Routon by altering one or more of said electronic messages according to said one or more signals in order to provide more control and flexibility for the advertisers to change the displayed advertisements quickly and easily by simply sending a signal requesting the change.

17. In reference to claims 38 and 47, Routon teaches wearing the headdress in a public place (page 1 lines 1-3 and page 2 lines 34-36). Routon does not teach the method wherein said electronic messages are controlled by a memory programmed with advertising messages, until said memory receives one or more signals, generated from a location remote from said headdress, for altering said advertising messages (col. 2 lines 64 to col. 3 lines 15). It would have been obvious to modify Routon to include the method wherein said electronic messages are controlled by a memory programmed with advertising messages, until said memory receives one or more signals, generated from a location remote from said headdress, for altering said advertising messages in

order to display different messages on the headdress and to easily retrieve the messages themselves for the display in an efficient way.

Point of Contact


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central FAX** phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

NB

February 16th, 2006


RETTA YEHDEGA
PRIMARY EXAMINER